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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) SON-2058	
	Application Number 09/980,252-Conf. #9700	Filed November 29, 2001	
	First Named Inventor Yasumasa Mizushima		
	Art Unit 3714	Examiner R. Laneau	
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant /inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>24,104 / 47,255</u></p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____</p> <p> Signature _____ Ronald P. Kananen Typed or printed name _____ (202) 955-3750 Telephone number _____ November 19, 2007 Date</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>			
<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.			



Docket No.: SON-2058
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Yasumasa Mizushima et al.

Confirmation No.: 9700

Application No.: 09/980,252

Art Unit: 3627

Filed: February 21, 2002

Examiner: Ronald Laneau

For: CONCENTRATED PHYSICAL
DISTRIBUTION SYSTEM
FOR CARGO AND METHOD THEREFOR

REQUEST FOR PRE-APPEAL BRIEF PANEL REVIEW OF REJECTION

MS AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is in full and timely response to the Office Action mailed on May 18, 2007.

Because November 18, 2006, the third extended month after the mailing date of the Office Action, falls on a Sunday, the period for response is extended to November 19, 2006, which is the next day that is neither a Saturday, Sunday nor a Federal holiday in the District of Columbia.

Final Office Action not necessitated by amendment

The non-final Office Action mailed on January 3, 2007 indicates that claims 37-43 were rejected under 35 U.S.C. §103 as allegedly being obvious over U.S. Patent Application Publication No. 2005/0091089 to Bjerre.

No amendment to claims 37-43 is found within the Amendment in Response to Non-Final Office Action filed on February 16, 2007.

Nevertheless, paragraph 6 of the Final Office Action of April 17, 2007 includes a rejection of claims 37-43 under 35 U.S.C. §103 as allegedly being obvious over U.S. Patent No. 6,151,588 Tozzoli et al. (Tozzoli). Paragraph 8 of the Final Office Action admits that the rejection found within paragraph 6 is a **new ground of rejection**.

Thus, the new rejection of claims 37-43 made within the Final Office Action is a new ground of rejection that is neither necessitated by applicant's amendment of claims 37-43 nor based on information submitted in an information disclosure statement.

Accordingly, the finality of the rejection of claims 37-43 made within the Final Office Action is **premature** at least for this reason.

Petition

A Petition Under 37 C.F.R. §1.181 to Request Withdrawal of the Final Office Action has been filed along on August 9, 2007 with the Amendment After Final Action (Section 1.116).

Timely consideration of this Petition is respectfully requested.

Paragraph 2 of the Office Action indicates that claims 44-52 have been rejected on the ground of statutory double patenting.

While not conceding the propriety of this rejection and in order to advance the prosecution of the above-identified application, claims 44-52 have been canceled within the Amendment After Final Action (Section 1.116).

Withdrawal of this rejection is respectfully requested.

Paragraph 6 of the Office Action indicates that claims 37-43 were rejected under 35 U.S.C. §103 as allegedly being obvious over U.S. Patent No. 6,151,588 Tozzoli et al. (Tozzoli).

This rejection is traversed at least for the following reasons.

Tozzoli - The paragraph of Tozzoli beginning at column 1, line 52, provides that:

Meanwhile, the shipper, via a carrier, transports the goods to the buyer's location. The carrier requires presentation of the bill of lading, which was delivered to the seller, before transferring possession of the goods to the buyer.

The Final Office Action relies upon Tozzoli at column 8, line 49 to column 9, line 23.

In this regard, Tozzoli arguably teaches that the system then filters the shipping documents by means of processors 20A . . . 20N to ensure compliance with the original purchase order and criteria of the funder and/or system and electronically forwards the shipping documents to the freight forwarder or shipper, which in turn selects a carrier (Tozzoli at column 8, lines 53-58).

If the seller has given shipping instructions to the freight forwarder or carrier outside the system, for example, in a telephone conversation, then the freight forwarder or carrier enters the relevant portions of the shipping instructions to the system for creation of confirming documents, such as the bill of lading (Tozzoli at column 8, lines 60-65).

The seller delivers its goods to the carrier or freight forwarder accompanied by a paper copy of the shipping documents which the seller prepared electronically from a template provided by the system (Tozzoli at column 8, line 66 to column 9, line 2).

The system also delivers the electronic shipping documents to the carrier and permits the carrier to obtain a template for creation of bill(s) of lading with fields filled in as appropriate from stored purchase order data and any subsequent activity (Tozzoli at column 9, lines 3-8).

However, Tozzoli at column 8, line 49 to column 9, line 23 as relied upon within the Final Office Action fails to disclose, teach, or suggest the presence of vessel schedule information.

Tozzoli arguably teaches that a detailed examination of the Consolidated Lint purchase order might indicate a shipment schedule of Mar. 16, 1994 and Mar. 20, 1994 (Tozzoli at column 11, lines 3-5).

It will be appreciated that not all fields of the template need to be completed for each purchase order, and that some fields will be completed in due course, such as delivery schedule, shipping terms, payment terms, insurance terms, and possibly penalties for delayed performance (Tozzoli at column 11, lines 45-50).

The front end software at the buyer's premises may perform preliminary consistency checks on the data entered into the template, for example, ensuring that the quantities to be delivered according to a proposed delivery schedule, if one is supplied, equal the quantity ordered (Tozzoli at column 11, lines 52-56).

Other fields may be filtered differently, for example, the delivery schedule may be simply compared against the present date to ensure that the delivery dates are future dates (Tozzoli at column 12, lines 9-12).

In certain embodiments, the trade system automatically generates scheduling reminder data (Tozzoli at column 17, lines 42-43).

But at the very least, Tozzoli fails to disclose, teach, or suggest the claim 37 step of performing pre-booking of a specific outgoing vessel schedule selected among previously obtained outgoing vessel schedule information at a time of receiving a consigning order of cargo delivery, and using information concerning a designated outgoing vessel schedule as draft information for the bill of lading.

Tozzoli fails to disclose, teach, or suggest the claim 40 feature of booking means for performing booking of a specific outgoing vessel schedule on a basis of the outgoing vessel schedule information and the shipping instruction information, both being read out from the two storing means.

Tozzoli ***fails*** to disclose, teach, or suggest the claim 42 feature of *draft information storing means for storing information related to an outgoing vessel schedule at a time of performing booking of a specific outgoing vessel schedule selected in a previously obtained outgoing vessel schedule table when a consigning order of cargo delivery is received.*

Withdrawal of this rejection and allowance of the claims is respectfully requested.

Paragraph 7 of the Office Action indicates that claims 44-52 were rejected under 35 U.S.C. §103 as allegedly being unpatentable over U.S. Patent No. 6,036,348 to Miura in view of U.S. Patent Application Publication No. 2002/0156656 to Harrell et al. (Harrell).


This rejection is traversed at least for the following reasons.

While not conceding the propriety of this rejection and in order to advance the prosecution of the above-identified application, claims 44-52 have been canceled.

Withdrawal of this rejection is respectfully requested.

Dated: November 19, 2007

Respectfully submitted,

By 

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